

810-3-82-.01 Declarations of Estimated Tax for Individuals. **(REPEALED)**

(1) (a) Every individual is required to file Form 40-ES "Declaration of Estimated Tax" if reasonably expected to have net income from sources other than wages in excess of:

1. \$1,500 if single or married filing a separate return, or
2. \$3,000 if married filing a joint return.

(i) No substitute for Form 40-ES will be accepted unless prior approval has been obtained from the Department.

(ii) Payments must be accompanied by a properly completed Form 40-ES or 40-ES voucher in order to be properly credited.

(b) If the amount of estimated tax due under subparagraph (a) above is less than one hundred dollars (\$100), no declaration of estimated tax is required to be filed.

(c) Amounts included in composite returns filed under the provisions of S 40-18-176 shall not be included in income in computing the amount of estimated tax due under subparagraph (a) above.

(2) The declaration (Form 40-ES) required under paragraph (1) above shall be filed on or before April 15th of the taxable year, except:

(a) if the requirements of paragraph (1) are first met after April 1st and before June 2nd, Form 40-ES shall be filed on or before June 15th of the taxable year;

(b) if the requirements of paragraph (1) are first met after June 1st and before September 2nd, Form 40-ES shall be filed on or before September 15th of the taxable year;

(c) if the requirements of paragraph (1) are met after September 1st of the taxable year, Form 40-ES shall be filed on or before January 15th of the succeeding taxable year.

(3) A Taxpayer may elect to have all or part of an overpayment shown on the income tax return credited to a declaration of estimated tax. The amount indicated will be credited to the earliest installment of the declaration due on or after the date the return is filed. The election to credit an overpayment to estimated tax is irrevocable after the return is filed.

(4) Amounts paid on declarations of estimated tax, including overpayments credited from prior years, must be claimed as credits on the return for the tax year of the

declaration, and will not otherwise be refunded or credited.

(5) (a) If, at the time a declaration of estimated tax is required to be filed, a taxpayer is eligible to file a joint income tax return for the year of the declaration, a joint declaration may be made.

(b) The election to file a joint declaration does not require that a joint income tax return subsequently be filed for the year of the declaration.

(c) 1. If a joint declaration is filed, and separate returns are subsequently filed, the amount of estimated tax paid on the joint declarations may be divided between the spouses in any manner they choose. If no division is made by the spouses, the amounts paid on the declarations will be divided equally between the spouses.

2. In the event separate returns are filed, any applicable penalties for underestimation will be computed on each return after crediting the estimated payments as provided in section 1. above.

(6) (a) If, after a declaration of estimated tax is filed, the estimated liability changes, an amended declaration should be filed. An amended declaration may be made by filing Form 40-ES marked "Amended."

(b) 1. If the amended declaration indicates an increase in the estimated liability, payment should be submitted with the amended declaration in an amount equal to all payments that would have been due to date had the amount of the amended estimate been estimated originally.

(i) EXAMPLE: On April 15th, taxpayer filed a declaration of estimated tax in the amount of \$1,000. Payments of \$250 were made on April 15th and June 15th. On August 20th the taxpayer sold 100 acres of land. As a result of the gain on this sale, the taxpayer should reasonably expect his tax liability to be \$2,000 for the current taxable year. The taxpayer should file an amended declaration of estimated tax on or before September 15th and pay \$1,000 with the amended estimate (\$1,500 the amount of payments that would have been due, if the amended estimate had been originally estimated, less \$500 previously paid). He should pay \$500 on or before January 15th of the following year.

2. If the amended declaration results in a decrease in the estimated liability, the subsequent payments should be reduced accordingly.

(7) If a taxpayer files his income tax return for a taxable year on or before the fifteenth 15th day of the month following the close of the year, and pays in full the amount of tax shown by the return to be due, the return will be considered an amended declaration or original declaration which otherwise would have been due on that date.

(8) No declaration of estimated tax is required for estates, trusts, or partnerships.

However, a partner or beneficiary of an estate or trust must take into account the distributive share of such income in determining the requirements for filing a declaration and paying estimated tax.

(9) (a) An individual must file Form 40-ES for a period of less than one year, but four (4) or more months, if required to file an income tax return for such period, and can reasonably expect to have income during such period from sources other than wages, prorated by the ratio which the number of months in the taxable year bears to twelve (12), in excess of:

1. \$1,500 if single or married filing a separate return, or
2. \$3,000 if married filing a joint return.

(i) EXAMPLE: A single taxpayer is changing his taxable year, with the permission of the Department, from a fiscal year ending July 31 to a calendar year. A tax return would be required for the period August 1 through December 31. If the taxpayer can reasonably expect to have income from sources other than wages in excess of \$625 (5/12 of \$1,500) he is required to file Form 40-ES and pay the amount estimated in installments.

(b) If the requirements of subparagraph (a) are met on or before the 1st day of the 4th month, Form 40-ES must be filed on or before the 15th day of the 4th month of the taxable period. Payments on the declaration will be made in equal installments on the 15th day of the 4th, 6th, and 9th month of the taxable period (or as many of those dates as falls within the taxable period.) and the 15th day of the 1st month after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through May 31, a Form 40-ES must be filed on or before April 15th and the amount estimated paid in two (2) equal installments on April 15th and June 15th.

2. EXAMPLE: For a taxable period January 1 through June 30, Form 40-ES must be filed on or before April 15th and the amount estimated paid in three (3) equal installments on April 15th, June 15th, and July 15th.

3. EXAMPLE: For a taxable period January 1 through October 31, Form 40-ES must be filed on or before April 15th and the amount estimated paid in four (4) equal installments on April 15th, June 15th, September 15th, and November 15th.

(c) If the requirements of subparagraph (a) above are met after the 1st day of the 4th month but before the 2nd day of the 6th month, Form 40-ES must be filed on or before the 15th day of the 6th month and the amount estimated paid in equal installments on the 15th day of the 6th and 9th month of the taxable period (or on as many of those dates as falls within the taxpayer period) and the 15th day of the 1st

months after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through July 31, the requirement to file a declaration was first met on May 1st. Form 40-ES must be filed on or before June 15th and the amount estimated paid in two (2) equal installments on June 15th and August 15.

2. EXAMPLE: For a taxable period January 1 through November 30, the requirement to file a declaration was first met on May 15th. Form 40-ES must be filed on or before June 15th and the amount estimated paid in three (3) equal installments on June 15th, September 15th, and December 15th.

(d) If the requirements of subparagraph (a) are first met after the 1st day of the 6th month but before the 2nd day of the 9th month, Form 40-ES must be filed on or before the 15th day of the 9th month and the amount estimated paid in equal installments on the 15th day of the 9th month of the taxable period and the 15th day of the 1st month after the end of the taxable period.

1. EXAMPLE: For a taxable period January 1 through September 30, the requirement to file a declaration was met on July 30th. Form 40-ES must be filed on or before September 15th and the amount estimated paid in two (2) equal installments on September 15th and October 15th.

(e) If the requirements of subparagraph (a) are met after the 1st day of the 9th month of the taxable period, Form 40-ES must be filed on or before the 15th day of the 1st month after the end of the taxable period together with payment of the amount estimated.

(f) All declarations of estimated tax for a period of less than twelve (12) months should be clearly marked "Short Tax Period". The taxable period should be clearly indicated.

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